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FILED
 MAY 2 1980
 U.S. DISTRICT COURT
 S.D. CALIF.

ATTORNEYS FOR Defendant Exidy, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SAN DIEGO

CINEMATRONICS, INC.
 a California corporation,

Plaintiff,

v.

VECTORBEAM, a California
 corporation; EXIDY, INCORPORATED,
 a California corporation;
 and DOES 1 through X,
 inclusive,

Defendants.

Case. No. 451437

DECLARATION OF
 H. R. KAUFMAN IN
 OPPOSITION TO PLAINTIFF'S
 REQUEST FOR A PRELIMINARY
 INJUNCTION

Date: May 7, 1980

Time: 1:30 pm

Dept Dept 17

I, H. R. KAUFMAN, hereby declare:

1. That I am President of Exidy, Inc., one of the defendants
 in the within action.

2. That in late November and early December, 1979,
 I personally participated in the negotiation and execution
 of two agreements between Exidy, Inc., and Cinematronics --
 namely, the "Stock Purchase Agreement" whereby Exidy purchased
 shares of Vectorbeam stock, and a "Mutual License and Royalty
 Agreement" whereby certain patents and proprietary designs were

1 cross-licensed. Both agreements were negotiated concurrently
2 and executed at the same time.

3 At the time of the negotiations, certain representations
4 were made to Exidy by Vectorbeam, which representations
5 induced Exidy to enter into the agreements.

6 3. With respect to the LEVINE EMPLOYMENT AGREEMENT, I was
7 told by JIM PIERCE, President of Cinematronics, that the
8 LEVINE EMPLOYMENT AGREEMENT has been terminated and was no
9 longer in effect. I specifically indicated that Exidy had a
10 policy of not having employment agreements and would not
11 purchase Vectorbeam if the Levine contract were not cancelled.
12 As a result a written addendum was entered into executed by
13 myself and a representative of Cinematronics, which provided
14 that the contracts are contingent upon Cinematronics holding
15 Exidy harmless from the Levine Agreement. A true copy of said
16 Agreement is attached to the Exidy Complaint as Exhibit "F"
17 and re-attached hereto and incorporated by this reference as
18 Exhibit "A". Subsequent to Exidy taking over Vectorbeam,
19 Mr. Levine has made a claim against Exidy/Vectorbeam for the
20 four-year balance of his alleged employment agreement in the
21 gross sum of approximately \$216,000.

22 4. As part of the "Stock Purchase Agreement," Cinematronics
23 agreed to subordinate its loan to inventory and receivable
24 financing. I have made repeated requests upon Mr. Jim Pierce
25 and Cinematronics to execute such a subordination agreement
26

to enable us to obtain an adequate line of credit at Bank of America. On six to eight occasions, between February, 1980, and April, 1980, Cinematronics has refused to sign in violation of the agreement. As a result, the Bank has reduced defendant's line of credit by \$526,000, an amount equal to the unsubordinated note.

5. Prior to purchasing Vectorbeam, Exidy did not have an opportunity to do a physical inventory or inspection of the inventory at Vectorbeam. It was represented to Exidy that a minimal amount of inventory was obsolete and/or unusable, and Exidy representatives were shown a small stock of "obsolete inventory". In fact, after Exidy took over Vectorbeam, Exidy discovered approximately \$325,000 of the inventory represented as current and usable was obsolete and unusable. This included specialty parts, art work and other parts for old and outdated video games. Exidy offered to resell this inventory to Cinematronics, Inc., at the same price, but that offer was refused.

6. In addition to the above inventory shortage and irregularity, after purchase of Vectorbeam we discovered undisclosed contracts for office equipment and furniture, an auto lease, and improper accounts payable and receivable charges amounting to approximately \$50,000 in liabilities of Vectorbeam which were not disclosed at the time of purchase.

7. To date, Vectorbeam has sold 873 units of Tail Gunner II, which involved the use of the license covered by the "Mutual License and Royalty Agreement". Vectorbeam has received \$1,829,000.00 in net sales for such games. Vectorbeam has

1 currently in production approximately 125 units of Tail Gunner II.

2 8. As a result of the imposition of the Temporary Restraining
3 Order herein, Vectorbeam will be required to lay off 42 technical
4 employees. Because defendants are located in the "Silicon
5 Valley", it is anticipated these employees will immediately
6 find new positions with other companies and will be difficult,
7 if not impossible to replace. As a result the temporary lay-off
8 of employees may force the permanent shut-down of the Vectorbeam
9 facility.

10 9. That on or about April 2, 1980, I personally met with
11 Jim Pierce, President of Cinematronics, and discussed the
12 various problems arising out of the two agreements. At that
13 time I tendered to Mr. Pierce the royalties due to Cinematronics,
14 conditional only upon Cinematronics signing a proffered
15 subordination agreement prepared by the Bank of America. ✓
16 Mr. Pierce refused the tender.

17 10. Exidy has never received the corporate documentation
18 concerning Vectorbeam. Specifically, we have not received
19 the Articles of Incorporation, By-Laws, Minutes of the Board
20 of Directors or Shareholders meetings. We have made requests
21 of Cinematronics through its attorney, Phillip DeCaro, for
22 such documents but to date have not received same.

23 I declare under penalty of perjury that the foregoing is
24 true and correct. Executed at Sunnyvale, California, this 30
25 day of April, 1980.

26 
H. R. KAUFMAN

FROM THE DESK OF
Gale E. Gatto

Phil's copy

the contracts
of Dec 4, 1979 between
Cromwell & Exidy are
incorporated in Cromwell's holding
company known as Exidy
Exidy does not need a new
agreement with Cromwell.

10th of November,
a corporation (herein-
ifornia corporation

as follows:

Seller represents
ent is made in

has been duly

incorporated, and is validly existing and in good standing as
a corporation under California law.

(b) The Company has a total of Three Hundred Ninety
Thousand (\$90,000) shares of capital stock (the "Shares") outstanding
and all of the Shares have been legally and validly issued.